If it is not now possible to recover the necklace the pawnbroker will have to hand over to Patemahbi the proceeds of its sale. I am also of opinion that the wrist chain (Exhibit D) should be handed over to Patemahbi. I therefore vary the order of the Magistrate accordingly in regard to these two articles. I confirm the Magistrate's order as regards the bangles and rings (Exhibits C1, C2, E1 and E2).

There is one other matter to which it is necessary to refer. At the beginning of this Judgment I mentioned that this matter has come before this Court on an application for revision. Mr. Walters for the pawnbroker pointed out that this was a case in which an appeal could have been filed, and he urged that as that course had not been adopted I should now decline to deal with the matter by way of revision. It is, of course, impossible to lay it down as a general rule that in any case where a right of appeal exists and has not been taken advantage of, this Court should decline to exercise its powers of revision. Each case must, in my view, be considered in relation to its own circumstances. In the present case, inasmuch as it does not appear to me that the position of anyone concerned has been prejudiced in any way by the delay which has occurred in bringing the matter before this Court, I do not think I should decline to review an order which, if allowed to stand, would in my opinion effect an injustice to one of the parties concerned.

I find as a fact that the necklace (Exhibit "A") has been sold and cannot now be recovered. I therefore order that the proceeds of its sale ($126/-) be paid by the pawnbroker to Patemahbi.

Stay on order regarding bangles and rings for 14 days, on footing that if pawnbroker within that time commences a suit against the thief in the District Court in respect of this matter the articles are to be handed over to the District Court to abide result of the suit.

Order accordingly

Worley, D.P.P., for the Crown.

Solicitors for the pawnbroker—

Allen & Gledhill.

[ORIGINAL CIVIL JURISDICTION]

HUGGARD, C.J.

February 6, 1935.

RE CHEW JOO CHIAT, deceased.

LIM SONG KEE

v.

EUGENE ERNEST COLMAN (Official Assignee, Singapore).

[SINGAPORE SUIT No. 1370 of 1931]

Civil Procedure Code S. 857—Grant of Letters of Administration to Official Assignee—whether such grant is a grant to the individual or to him and his successors in office.

When a grant of Letters of Administration is made to an Official Assignee under S. 857 of the Civil Procedure Code (now replaced by S. 54 of the Probate and Administration Ordinance 1934) this is a grant to such person in his individual capacity and not a grant to the Official Assignee for the time being and his successors in office.

Adjourned Summons.

This was an application by Defendant for a declaration that the Official Assignee for the time being and at all material times is and has been the administrator of the estate of Chew Joo Chiat deceased, and for certain consequential directions. The Official Assignee for the time being was by consent served and allowed to be heard in the application.

C. H. Smith for the Defendant.

The Official Assignee (*E. B. Williams*) in support of the application.

E. R. Koek for the Plaintiff, and other beneficiaries of the deceased's estate, *contra.*

C. O. Lim for the Official Assignee of the property of Chew Cheng Swee, a bankrupt.

The facts and argument sufficiently appear from the Judgment.

Cur. Ad. Vult.

HUGGARD, C.J.—Section 857 of the Civil Procedure Code (now replaced by Section 54 of the Probate and Administration Ordinance, 1934) empowered the Court in certain events to grant to the Official Assignee or to such other person as the Court thinks fit letters of administration with the will annexed or otherwise as the case requires.

By Order of Court made under this section in Probate No. 136 of 1926, and dated the 28th November, 1927, the Official Assignee was appointed administrator of the Estate of Chew Joo Chiat deceased. The relevant portion of the Order is as follows:—

> "*And this Court doth further Order* that the Official Assignee be appointed Administrator of the said estate of the above-named deceased and that Letters of Administration of the said estate of the above-named deceased be granted to the Official Assignee."

At the date of this Order the holder of the office of Official Assignee was Mr. Eugene Ernest Colman and he took the usual oath required by section 918 of the Code.

Mr. Colman retired from office in December, 1932, having partially administered the estate, and since that date three other officers have successively held the office of Official Assignee and have continued the administration of the estate.

The question for decision on this Summons is whether under the Order mentioned above the

administrator of the estate is and has been the holder from time to time of the office of Official Assignee or whether the administrator is still Mr. Colman in his individual capacity.

Or, to put it in a general form the question is whether a grant of letters of administration to the Official Assignee by his official title passes automatically to his successors in office or whether it is a personal grant to the officer holding the office at the date of the grant.

The Official Assignee is not a corporation sole, and therefore a grant can only pass automatically to his successors in office by virtue of some express statutory provision.

In contending that a grant automatically passes, the Official Assignee relies mainly, if not entirely, on the provisions of section 4 (f) of Ordinance No. 131 (Interpretation) which provides that:—

> "Where reference is made (i.e., in anv Ordinance or other written law) to any public officer by the term designating his office, such term shall include the officer for the time being lawfully executing the duties of such office, as well as such other officer as may be appointed to perform any portion of such duties."

Now I think it is clear that the main purpose of this general provision (which is to be found in most, if not all, Colonial Interpretation enactments) is to cover the case of acting officers, that is to say, officers who are acting temporarily in an office the substantive holder of which may be on leave or may himself be acting temporarily in some other office. It is obviously necessary that an officer acting in an office should have all the powers and should be able to exercise all the functions of the substantive holder of that office, and this general provision covers all such cases.

But I find it impossible to accept the proposition that a grant of letters of administration to the Official Assignee under section 857 of the Civil Procedure Code is, by virtue of this general provision, a grant to the Official Assignee for the time being *and* his successors in office. In my view the two sections when read together carry us no further than this: they enable the Court to issue a grant to whatever officer may be, at the date of the grant, lawfully executing the duties of Official Assignee.

Even if the words "for the time being" in section 4 (f) of the Interpretation Ordinance could properly be interpreted as meaning "from time to time," I should still find myself unable to accept the Official Assignee's contention. Section 4 (f) applies only to the interpretation of written laws as defined in section 2 and has no application to the interpretation of Orders of Court. It does not seem to me possible, therefore, to invoke the aid of section 4 (f) for the purpose of suggesting that the term "Official Assignee" in the Order of Court here means the officer holding that post from time to time.

I am therefore of opinion that the grant in the present case was issued to the officer executing the duties of Official Assignee at the date of the grant, namely, Mr. Colman, and that he is still the administrator of the estate.

The view which I have taken in this matter appears to derive support from the following considerations.

In the first place, it seems to me that, inasmuch as section 857 of the Code provides that—"The Court may grant to the Official Assignee or to such *other person*," there is force in the argument that the Legislature intended that the grant should be issued to the Official Assignee in his individual or personal capacity.

Secondly, the person required to take the administration oath prescribed by section 918 of the Code is the particular officer to whom the grant is issued. Clearly he cannot bind his successors in office and the Code contains no provision requiring his successors to take any such oath, nor is it the practice for succeeding Official Assignees to take fresh oaths.

Thirdly, it is important to remember that if a grant under section 857 of the Code is to be deemed to pass automatically to successive Official Assignees, then the property in the estate of the deceased person must similarly be deemed to pass automatically. I agree with Mr. Koek, who appeared for the Plaintiff on this Summons, that if it has been the intention of the Legislature that a grant under section 857 should be to the Official Assignee and his successors in office and that the property should pass from Official Assignee to Official Assignee, one is entitled to expect that that intention would have been expressed in clear and unequivocal terms. Examples of such a provision appear in the Treasury Solicitor Act, 1876 (39 and 40 Vict., c. 41, s. 2) and in the Duchy of Lancaster Act, 1920 (10 and 11 Geo. 5, c. 51, s. 3). Indeed our own Bankruptcy Ordinance provides in section 56 (1) that the property of a Bankrupt shall pass from Official Assignee to Official Assignee and shall vest in the Official Assignee for the time being. It appears to me to be reasonable to infer from the omission to insert a corresponding provision in Chapter 40 of the Civil Procedure Code that it was the intention that a grant of letters of administration and the property of a deceased person should *not* pass automatically from Official Assignee to Official Assignee.

In the course of the argument on this Summons reference was made to paragraphs (k) and (l) of section 3 of the Interpretation

Ordinance. So far as I have been able to comprehend those paragraphs it does not appear to me that they have any bearing on the question before me.

I do not attach any particular weight to the point that under section 923 of the Code the Official Assignee is expressly exempted from giving the usual security required from an administrator. The Official Assignee is always an officer of Government and it may be that the Legislature regarded it as improbable that Government would ever allow the estate of a deceased person to suffer by reason of maladministration on the part of one of its officers.

Mr. Smith who appeared for Mr. Colman argued, in supporting the Official Assignee's contention, that in considering the question raised in this Summons considerable weight should be given to the fact that for many years it has been the practice in the Bankruptcy Office for successive Official Assignees, without obtaining fresh grants, to carry on the administration of estates of deceased persons, and he suggested that the Legislature in enacting section 4 (f) of the Interpretation Ordinance must be taken to have acquiesced in that practice. I am not impressed with this argument in its application to the position here. I see no sufficient reason for imputing to the Legislature a knowledge of the practice in the Bankruptcy Office. And if the practice is based on an erroneous construction of the law there is no principle (as Lord Macnaghten said in *Hamilton* v. *Baker*, 14 A.C. at p. 222) which precludes the Courts from correcting the error.

It may be, of course, that the Legislature *did* intend that grants issued to Official Assignees under section 857 of the Code should pass automatically to successors in office. Possibly the fact that the Official Assignee was not a corporation sole was overlooked. But in construing a statute, where the language is plain and unambiguous, the meaning and intention of the statute must be collected from the language used. Where the language is clear, a Court is not at liberty to speculate on the intention of the Legislature or to construe the language of the statute according to its own notions of what ought to have been enacted, (See Judgment of the Court in *The York and North Midland Railway Company* v. *The Queen*, 22 L.J.Q.B. at 230). And in *Salomon* v. *Salomon*, (1897) A. C. at p. 38, Lord Watson said :—

> "'Intention of the Legislature' is a common but very slippery phrase, which, popularly understood, may signify anything from intention embodied in positive enactment to speculative opinion as to what the Legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication."

Applying these principles to the present case I can find nothing in the language of the Civil Procedure Code or of the Interpretation Ordinance which would justify me in holding that a grant of letters of administration to the Official Assignee under section 857 of the Code passes automatically to his successors in office. I am therefore compelled to hold that under the Order of Court of the 28th November, 1927, Mr. Colman has always been and still is the administrator of the estate of Chew Joo Chiat deceased.

In accordance with the agreement arrived at at the conclusion of the argument Mr. Wilson, Mr. Worley and Mr. Williams, who have acted or officiated as Official Assignee since the retirement of Mr. Colman, will be declared not liable to be charged in respect of any act committed by any of them as executor *de son tort*.

Mr. Smith will receive $250 costs out of the estate of the deceased.

Order Accordingly.

Solicitors for the Plaintiff—*Chan & Eber.*

Solicitors for the Defendant—

Donaldson & Burkinshaw.

(ORIGINAL CIVIL JURISDICTION)

TERRELL, J.

February 26, 1935.

KIM SENG LAND COMPANY LIMITED

v.

THE RURAL BOARD, SINGAPORE.

(SINGAPORE RATING APPEAL No. 4 of 1934).

Ordinance No. 135 (Municipal) S. 3—definition of "annual value"—method of assessing large areas of vacant land.

When a large area of land is assessed under the Municipal Ordinance for the purpose of payment of rates, the valuation by the assessing authority should indicate, at least, roughly, the different areas assessed and the different valuations placed on such areas. In the case of a large estate, an overall valuation which fails to distinguish the actual areas assessed and the different valuations placed on such areas, of the method by which the assessing authority arrived at the conclusions, is not a proper assessment. *Semble.* In the definition of "annual value" in S. 3 of Ordinance No. 135 (Municipal) and in the second proviso thereto, the words relating to land "capable of being developed for building purposes" mean capable of being so developed at a cost not disproportionate to the value of the lands or of any building that might be erected on it.

Appeal under S. 66 of Ordinance No. 135 (Municipal) from an assessment by the Rural Board, Singapore.

The facts and grounds of appeal are sufficiently set out in the Judgment.